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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,292	10/17/2003	Alan M. Zamore	2003-6	6496
23401	7590	07/27/2007		
ALAN M ZAMORE 23 MOUNTAIN AVE MONSEY, NY 10952			EXAMINER JACKSON, MONIQUE R	
			ART UNIT 1773	PAPER NUMBER
			MAIL DATE 07/27/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/688,292

**Applicant(s)**

ZAMORE, ALAN M.

**Examiner**

Monique R. Jackson

**Art Unit**

1773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25,35 and 36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25,35 and 36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

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### **DETAILED ACTION**

1. The amendment filed 5/4/07 has been entered. Claims 26-34 have been canceled.

Claims 1-25 and 35-36 are pending in the application.

2. Applicant's election of Group I, Claims 1-25 and 35-36 in the reply filed on 5/4/07 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). However, since the nonelected claims 26-34 have been cancelled, there is no need to withdraw the nonelected invention.

### ***Information Disclosure Statement***

3. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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5. Claims 1-19, and 35, 36 are rejected under 35 U.S.C. 102(e) as being anticipated by Wang et al (US 7,108,826 B2.) Wang et al teaches a high compliance, high strength catheter balloon and catheter comprising the balloon wherein an extruded tubing of thermoplastic polymer material is radially expanded under a first elevated pressure at an elevated temperature to form the balloon at a first diameter and then annealing the balloon at a second elevated temperature and a second pressure less than the first elevated pressure for a time sufficient to shrink the formed balloon to a second diameter less than the first diameter (Abstract; Col. 3-Col. 4; Col. 8, lines 20-21.) Wang et al teach that the thermoplastic polymeric material may be a block copolymer elastomeric material including polyamide/polyethers, polyester/polyethers and polyamide/ polyester polyethers as well as other thermoplastics or thermoplastic elastomers (*reads upon the claimed polymer with shrink memory*; Col. 6, lines 9-Col. 8, lines 19.) Wang et al teach that the balloon and the balloon shrinking process are conducted by known methods including maintaining a distance between ends as well as increasing the distance between ends as instantly claimed, and wherein Wang et al specifically teach examples with compliance curves that read upon the claimed invention (Col. 8, Examples, Figures, Table 1.) With respect to Claim 6, it is noted that the balloon is not positive recited as being formed from the crosslinked polymer since Claim 6 depends upon Claim 5 which recites the crosslinked polymer in the alternative form. With respect to Claims 10, 35, and 36, since the balloon is in a tubular form and the claimed limitations provide no structural differences between the “balloon” and the “tubular element”, the Examiner takes the position that the balloon by itself as taught by Wang et al reads upon the claims.

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***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

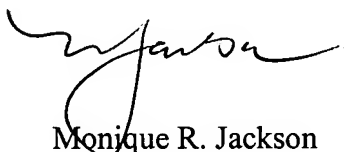
7. Claims 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al as evidenced by Chen (USPN 6,946,174.) The teachings of Wang et al are discussed above. Though Wang et al teach that the balloon may be formed from block copolymer elastomeric materials including polyamide/polyethers, polyester/polyethers and polyamide/ polyester polyethers as instantly claimed, and that the polymer may be annealed or heat treated after formation, Wang et al do not teach that the block copolymer elastomers are crosslinked by radiation. However, considering annealing of block copolymer elastomers in the art often includes the formation of crosslinks to provide greater durability or improved mechanical properties for a particular end use, and given that Chen teaches the use of crosslinked thermoplastic polymeric materials wherein the crosslinked structure provides more resilient and durable catheter balloons, one having ordinary skill in the art at the time of the invention would have been motivated to crosslink the polyamide/polyester polyethers taught by Wang et al by any means including radiation, utilizing routine experimentation to determine the optimum crosslink density to provide the desired compliance for a particular end use of the catheter balloon.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique R. Jackson whose telephone number is 571-272-1508. The examiner can normally be reached on Mondays-Thursdays, 8:00AM-4:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on 571-272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Monique R. Jackson  
Primary Examiner  
Technology Center 1700  
July 23, 2007